

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1149 of 1999

in

MISC.CIVIL APPLICATION No 1359 of 1999

with

CIVIL APPLICATION NO. 12119 OF 1999

WITH

LETTERS PATENT APPEAL NO. 1150 OF 1999

WITH

CIVIL APPLICATION NO. 12118 OF 1999

GANESH TRAVELLERS

Versus

UNION OF INDIA

Appearance:

MR BA VAISHNAV for Appellant

MS SIDDHI TALATI, FOR RESPONDENTS

CORAM : ACTG.CHIEF JUSTICE MR. C.K.THAKKAR and

MR.JUSTICE K.M.MEHTA

Date of Order: 13/10/1999

ORAL ORDER

Both the appeals arise out of the orders passed in SCA No. 10897 of 1998 and MCA No. 1359 of 1999 in SCA No. 10897 of 1998.

The appellant was the original petitioner. He approached this Court by filing SCA No. 10897 of 1998 for an appropriate writ, direction or order quashing and setting aside the communication dated November 25, 1998 issued by respondent No.3 and by directing him to grant licence under the RTSA Rules, 1985 (hereinafter referred to as "the Rules").

When the matter was placed before the learned Single Judge, he was of the view that alternative and equally efficacious remedy was available to the petitioner. It was, however, observed by the learned Single Judge that appeal was not filed. Hence, the petition was dismissed vide order dated April 26, 1999.

In fact, alternative remedy was available to the petitioner and he had availed of that alternative remedy by filing an appeal, but it was not disposed of. Since the said fact was not reflected in the order passed by the learned Single Judge, above MCA was filed. However, the learned Single Judge vide his order dated August 9, 1999 rejected the MCA. These appeals are, therefore, filed against the orders passed in the main matter as also in the review application.

In the facts and circumstances of the case, we have admitted both the appeals. Ms Siddhi Talati appeared for the respondents and waived service. In the facts and circumstances of the case, the matters were taken up for final hearing today.

In view of the fact that alternative and efficacious remedy was available to the appellant and in that in fact, appeal was filed and is pending, in our opinion, the learned Single Judge has not committed any error of law in not entertaining the SCA. But it was not correct that appeal was not filed. In fact, appeal was filed and is pending before the appellate authority. In the light of the above facts and circumstances, in our opinion, ends of justice will be met if we direct the appellate authority to dispose of the appeal filed by the appellant-petitioner as expeditiously as possible, preferably before January 31, 2000. Appeals are accordingly disposed of. No order as to costs.

(C.K.Thakker, Actg.C.J.)

(K. M. Mehta, J.)

parekh